

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 98-924

January 11, 2000

PORTLAND WATER DISTRICT  
PROPOSED RATE CHANGE  
(DECREASE OF 8%)

ORDER (PHASE II)

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In Phase I of this case, we required the Portland Water District (District) to provide certain information if it sought to defend a price differential between Standish and the member communities. Order, Part II, dated June 2, 1999. We also approved a rate decrease and allowed the differential to go into effect pending the conclusion of this Phase II proceeding.<sup>1</sup> On August 27, 1999, the Portland Water District filed its Report in Support of the Rate Differential Between Member and Non-Member Municipalities. In this report, the District provided evidence that Standish's non-membership status affected the cost of debt service to the District.

After the filing of the report, the Commission held a conference of counsel in which the Public Advocate indicated that he did not intend to participate in the rate design aspect of this proceeding.<sup>2</sup> At the conference, the Town Manager of Standish was not sure whether Standish would contest the report provided by the District. In a subsequent teleconference, counsel for Standish indicated that Standish would not contest the information provided by the District, even though the Examiner indicated that in such a case the only evidence upon which the Commission would base its decision would be the report provided by the District.<sup>3</sup> Counsel for Standish agreed to an *ex parte* waiver so that the Examiner and the District could address how the matter should be resolved in the absence of participation in the case by any other party but the District.

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<sup>1</sup> Standish did not object to the Commission's approval of the differential during the pendency of the Phase II proceeding.

<sup>2</sup> The Public Advocate agreed to waive the rule against *ex parte* contacts so that the Examiner could communicate with the District and Standish.

<sup>3</sup> Subsequently, Standish filed a letter indicating that the Law Court's decision in the District's favor on the question of property taxes, *see, Portland Water District v. Town of Standish*, 1999 ME 161, *slip op.* (November 16, 1999), should weigh against allowing the differential. Standish's letter does not affect our decision here. We do not base our decision on the amount of property tax paid to Standish, but rather, as discussed above, on the uncontested evidence of higher credit costs to the District resulting from Standish's non-membership.

Solely on the basis of the uncontested evidence that Standish's non-membership status results in greater credit costs for the District than if Standish were a member, we allow the District to continue to charge Standish ratepayers a rate that is 15% higher than the rate paid by District ratepayers residing in member communities.

Accordingly, it is Ordered

That the District may continue to charge the rates approved in our **Corrected** Supplemented Order of May 12, 1999.

Dated at Augusta, Maine, this 11th day of January 2000.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.